

Application No. 09/816,867
Amendment dated August 21, 2003
Reply to Office Action of April 23, 2003

REMARKS

1. The above noted Office Action bears a mailing date of April 23, 2003. Prior counsel for the Applicant, however, did not receive this Office Action until June 12, 2003. Prior counsel then submitted a request to restart mail date of final office action on June 13, 2003. As of this time, Applicant's present counsel has not been apprised of the status of this request. Therefore, this response includes a petition for a one month extension of time. To the extent that this request has been granted, however, and the period to respond has been extended, the Applicant respectfully requests that the presently included petition to extend the time for response be set aside and the corresponding petition fee, if already processed, be refunded to counsel's deposit account of record.
2. Pursuant to the above noted Office Action, claim 13 was rejected under 35 U.S.C. 112, first paragraph. Claims 1-3 were rejected under 35 U.S.C. 102(b) given Walters (U.S. Patent No. 4,854,187) ("Walters"). Claims 1, 7, 11, 12, 14 and 15 were rejected under 35 U.S.C. 102(b) given Suzuki (U.S. Patent No. 4,793,206) ("Suzuki"). Claims 4-6 and 17 were objected to as depending upon rejected base claims. The Applicant respectfully traverses these rejections and requests reconsideration.
3. Claim 13 was rejected under 35 U.S.C. 112, first paragraph. The Examiner noted that claim 13 referred to rotational movement during the first stage whereas the claim from which claim 13 depends specifies translational movement during this first stage. The Examiner has correctly identified a wording error in claim 13 for which the Applicant expresses its thanks. Pursuant to this amendment, claim 13 has been amended to refer to translational movement during the first stage rather than rotational movement. The Applicant respectfully submits that claim 13 is now in suitable condition to support allowance.
4. Claims 1-3 are rejected under 35 U.S.C. 102(b) given Walters. The Examiner took note of Applicant's prior argument that Walters fails to teach each and every element of the claimed invention in that, at a minimum, the first step of the claims is initiated upon application of the lever and that such a feature is absent from Walters.

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The Examiner then countered, however, by expressing the contention that claim 1 does not require this first step to be initiated upon application of the lever.

Although Applicant disputes this interpretation of the claim language, in the interests of expedited prosecution, the Applicant has made revisions to claim 1 (and similar revisions to claim 16) to specifically indicate that the lever is arranged, "so that application of the lever initiates two steps to achieve the intended brake power." This language clearly specifies that which the Applicant has already argued as an important distinction with respect to Walters; i.e., that Walters fails to provide a first step, initiated upon activation of the lever, wherein translational movement of the lever takes up wire slack in the brake system.

So amended, the Applicant respectfully submits that claim 1 may be passed to allowance.

Claims 2 and 3 are dependent, ultimately, upon claim 1, which claim has been shown allowable above. In addition, these claims introduce additional subject matter that, particularly when considered in context with the recitations of claim 1, constitutes additional incremental patentable subject matter. For all these reasons, the Applicant respectfully submits that claims 1, 2 and 3 may be passed to allowance.

5. Claims 1, 7, 11, 12, 14, and 15 have been rejected under 35 U.S.C. 102(b) as being anticipated by Suzuki. The Applicant vigorously disputes this assertion.

The Examiner contends that Suzuki shows an arrangement for a two-stage parking brake. This constitutes a mischaracterization of Suzuki. Rather than depicting a parking brake, Suzuki depicts a clutch mechanism. Since the Applicant's claims are specifically directed to a parking brake, Suzuki cannot be said to anticipate such an application. Accordingly, rejection under 35 U.S.C. 102(b) is misplaced.

Furthermore, the Examiner asserts that Suzuki's lever mechanism comprises both Suzuki's connecting member 15 and a member denoted by reference numeral 33 in Suzuki's figures. Number 33, as explained by Suzuki, comprises the end portion of the clutch pedal 14. It is the clutch pedal (14 and 33) that comprised a lever mechanism. Connecting number 15 does not comprise a lever mechanism as contended by the Examiner. The pivot point, though without a reference numeral, is clearly visible in the figures and constitutes a fulcrum about which the clutch pedal lever 14 and 33 pivots. Although connecting number 15 experiences translational

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movement, the lever mechanism 14 and 33 does not. This stands in stark distinction to the Applicant's claimed approach wherein the lever itself experiences translational movement.

Given these distinctions, the Applicant respectfully submits that these claims are not anticipated by Suzuki.

6. Claim 16 has been rejected under 35 U.S.C. 102(b) in view of Suzuki as well. The distinguishing features noted above are applicable here as well and will not be repeated for the sake of brevity. Again, the Applicant respectfully submits that Suzuki does not anticipate these claims.

7. Claim 11 has been rejected under 35 U.S.C. 103(a) given Suzuki. Claim 11 depends from claim 7 which claim has been shown allowable above. In addition, claim 11 introduces additional subject matter that, particularly when taken in context with the subject matter of the claim from which it depends, comprises additional incremental patentable subject matter. For example, the pin-in-slot configuration specified in claim 11 can hardly be considered an obvious alteration to Suzuki when Suzuki makes no teaching or suggestion that translational movement of a lever, via a slot or any other mechanism, might be desired or even possible. The Applicant therefore respectfully submits that claim 11 should be passed to allowance.

8. There are no other objections to or rejections of the claims. The Applicant respectfully solicits reconsideration and notice of allowance.

Respectfully submitted,

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